

By:

Willia

S.B. No. 732

A BILL TO BE ENTITLED

AN ACT

relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 411.007(c), Government Code, is amended to read as follows:

(c) An applicant for a position in the department must be a United States citizen. An applicant may not be questioned regarding the applicant's political affiliation or religious faith or beliefs. The department may not prohibit an officer or employee of the department, while off duty and out of uniform, from placing a bumper sticker endorsing political activities or a candidate for political office on a personal vehicle, placing a campaign sign in the person's private yard, making a political contribution, or wearing a badge endorsing political activities or a candidate. An officer commissioned by the department may not be suspended, terminated, or subjected to any form of discrimination by the department because of the refusal of the officer to take a polygraph examination. Section 411.0074 does not authorize the department to require an officer commissioned by the department to take a polygraph examination.

SECTION 2. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0074 to read as follows:

Sec. 411.0074. POLYGRAPH EXAMINATIONS FOR CERTAIN

1 APPLICANTS. (a) This section does not apply to:

2 (1) an applicant who is currently a peace officer of
3 the department commissioned by the department; or

4 (2) an applicant for a police communications operator
5 position who is currently employed by the department in another
6 police communications operator position.

7 (b) The department shall require each applicant for a peace
8 officer or police communications operator position in the
9 department to submit to the administration of a polygraph
10 examination.

11 (c) The polygraph examination required by this section may
12 only be administered by a polygraph examiner licensed under Chapter
13 1703, Occupations Code, who:

14 (1) is a peace officer commissioned by the department;
15 or

16 (2) has a minimum of two years of experience
17 conducting preemployment polygraph examinations for a law
18 enforcement agency.

19 (d) The department and the polygraph examiner shall
20 maintain the confidentiality of the results of a polygraph
21 examination administered under this section, except that:

22 (1) the department and the polygraph examiner may
23 disclose the results in accordance with Section 1703.306,
24 Occupations Code; and

25 (2) notwithstanding Section 1703.306, Occupations
26 Code, the department may disclose any admission of criminal conduct
27 made during the course of an examination to another appropriate

1 governmental entity.

2 (e) The department shall adopt reasonable rules for the
3 administration of a polygraph examination under this section in
4 accordance with the guidelines published by the American Polygraph
5 Association or the American Association of Police Polygraphists.

6 (f) The department shall use the results of a polygraph
7 examination under this section as a factor in determining whether
8 to commission a peace officer or employ an applicant for the
9 position of police communications operator.

10 SECTION 3. Section 411.0074, Government Code, as added by
11 this Act, applies only to an applicant who submits an application
12 for a position in the Department of Public Safety of the State of
13 Texas on or after the effective date of this Act.

14 SECTION 4. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2005.

BILL ANALYSIS

Senate Research Center
79R2701 KEG-F

S.B. 732
By: Williams
Criminal Justice
3/17/2005
As Filed

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

A pre-employment polygraph examination can be an essential tool for a law enforcement agency to use in recruiting candidates with the highest qualities of honesty and integrity. The Texas Department of Public Safety (DPS) must be able to select those applicants who possess the highest qualities of moral character to serve the state. However, there is currently no legislative mandate to require DPS to use a pre-employment polygraph examination to ensure that such individuals are tapped to fill these sensitive positions. A pre-employment polygraph examination would be an additional tool, in conjunction with the current background investigation, that DPS could use to learn as much as possible about an applicant.

In a recent study of 43 local law enforcement agencies, 34 currently use a pre-employment polygraph in their application process. On a national level, law enforcement agencies that use pre-employment polygraph exams indicate high levels of confidence in the polygraph results, with many saying it reveals information not available otherwise, deters undesirable candidates, and makes background information easier to establish.

As proposed, S.B. 732 requires a polygraph examination of persons applying for certain peace officer and police communications operator positions.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Public Safety in SECTION 2 (Section 411.0074, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 411.007(c), Government Code, to provide that Section 411.0074 does not authorize the Department of Public Safety (DPS) to require an officer commissioned by DPS to take a polygraph examination.

SECTION 2. Amends Subchapter A, Chapter 411, Government Code, by adding Section 411.0074, as follows:

Sec. 411.0074. POLYGRAPH EXAMINATIONS FOR CERTAIN APPLICANTS. (a) Sets forth the persons to whom this section does not apply.

(b) Requires DPS to require each applicant for a peace officer or police communications operator position in DPS to submit to the administration of a polygraph examination.

(c) Requires the polygraph examination to be administered by a polygraph examiner licensed under Chapter 1703 (Polygraph Examiners), Occupations Code, who has certain qualifications.

(d) Requires DPS and the polygraph examiner to maintain the confidentiality of the results of the polygraph examination, and sets forth certain exceptions.

(e) Requires DPS to adopt reasonable rules for the administration of a polygraph examination under this section in accordance with the guidelines published by the

American Polygraph Association or the American Association of Police Polygraphists.

(f) Requires DPS to use the results of a polygraph examination under this section as a factor in determining whether to commission a peace officer or employ an applicant for the position of police communications operator.

SECTION 3. Makes application of Section 411.0074, Government Code, as added by this Act, prospective.

SECTION 4. Effective date: upon passage or September 1, 2005.

1-1 By: Williams S.B. No. 732
1-2 (In the Senate - Filed February 24, 2005; March 2, 2005,
1-3 read first time and referred to Committee on Criminal Justice;
1-4 March 29, 2005, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; March 29, 2005,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 732 By: Whitmire

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the administration of polygraph examinations to certain
1-11 applicants for positions in the Department of Public Safety of the
1-12 State of Texas.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subsection (c), Section 411.007, Government
1-15 Code, is amended to read as follows:

1-16 (c) An applicant for a position in the department must be a
1-17 United States citizen. An applicant may not be questioned
1-18 regarding the applicant's political affiliation or religious faith
1-19 or beliefs. The department may not prohibit an officer or employee
1-20 of the department, while off duty and out of uniform, from placing a
1-21 bumper sticker endorsing political activities or a candidate for
1-22 political office on a personal vehicle, placing a campaign sign in
1-23 the person's private yard, making a political contribution, or
1-24 wearing a badge endorsing political activities or a candidate. An
1-25 officer commissioned by the department may not be suspended,
1-26 terminated, or subjected to any form of discrimination by the
1-27 department because of the refusal of the officer to take a polygraph
1-28 examination. Section 411.0074 does not authorize the department to
1-29 require an officer commissioned by the department to take a
1-30 polygraph examination.

1-31 SECTION 2. Subchapter A, Chapter 411, Government Code, is
1-32 amended by adding Section 411.0074 to read as follows:

1-33 Sec. 411.0074. POLYGRAPH EXAMINATIONS FOR CERTAIN
1-34 APPLICANTS. (a) This section does not apply to:

1-35 (1) an applicant who is currently a peace officer of
1-36 the department commissioned by the department; or

1-37 (2) an applicant for a police communications operator
1-38 position who is currently employed by the department in another
1-39 police communications operator position.

1-40 (b) The department shall require applicants for a peace
1-41 officer or police communications operator position in the
1-42 department to submit to the administration of a polygraph
1-43 examination prior to employment. The polygraph examination shall
1-44 be administered at a point in the hiring process as determined by
1-45 the department by rule.

1-46 (c) The polygraph examination required by this section may
1-47 only be administered by a polygraph examiner licensed under Chapter
1-48 1703, Occupations Code, who:

1-49 (1) is a peace officer commissioned by the department;
1-50 or

1-51 (2) has a minimum of two years of experience
1-52 conducting preemployment polygraph examinations for a law
1-53 enforcement agency.

1-54 (d) The department and the polygraph examiner shall
1-55 maintain the confidentiality of the results of a polygraph
1-56 examination administered under this section, except that:

1-57 (1) the department and the polygraph examiner may
1-58 disclose the results in accordance with Section 1703.306,
1-59 Occupations Code; and

1-60 (2) notwithstanding Section 1703.306, Occupations
1-61 Code, the department may disclose any admission of criminal conduct
1-62 made during the course of an examination to another appropriate
1-63 governmental entity.

(e) The department shall adopt reasonable rules for the administration of a polygraph examination under this section in accordance with the guidelines published by the American Polygraph Association or the American Association of Police Polygraphists.

(f) The department shall use the results of a polygraph examination under this section as a factor in determining whether to commission a peace officer or employ an applicant for the position of police communications operator.

SECTION 3. Section 411.0074, Government Code, as added by this Act, applies only to an applicant who submits an application for a position in the Department of Public Safety of the State of Texas on or after the effective date of this Act.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2005.

* * * * *

FAVORABLY AS SUBSTITUTED
SENATE COMMITTEE REPORT ON

(SB) SCR SJR SR HB HCR HJR 732
By Williams
(Author/Senate Sponsor)
3-29-05
(date)

We, your Committee on CRIMINAL JUSTICE, to which was referred the attached measure,
have on 3/22/05, had the same under consideration and I am instructed to report it
(date of hearing)
back with the recommendation (s) that it:

- ☒ do pass as substituted, and be printed
☐ the caption remained the same as original measure
☒ the caption changed with adoption of the substitute
☐ do pass as substituted, and be ordered not printed
☒ and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes ☐ no

A revised fiscal note was requested. ☒ yes ☐ no

An actuarial analysis was requested. ☐ yes ☐ no

Considered by subcommittee. ☐ yes ☐ no

The measure was reported from Committee by the following vote:

	YEA	NAY	ABSENT	PNV
Senator Whitmire, Chair	<input checked="" type="checkbox"/>			
Senator Seliger, Vice-Chair	<input checked="" type="checkbox"/>			
Senator Carona			<input checked="" type="checkbox"/>	
Senator Ellis	<input checked="" type="checkbox"/>			
Senator Hinojosa	<input checked="" type="checkbox"/>			
Senator Ogden	<input checked="" type="checkbox"/>			
Senator Williams			<input checked="" type="checkbox"/>	
TOTAL VOTES	5	0	2	0

COMMITTEE ACTION

(S260) Considered in public hearing
(S270) Testimony taken

COMMITTEE CLERK

John Whitmire
CHAIR

Paper clip the original and one copy of this signed form to the original bill along with TWO copies of the Committee Substitute
Retain one copy of this form for Committee files

WITNESS LIST

SB 732

SENATE COMMITTEE REPORT

Criminal Justice

March 22, 2005 - 1:30PM

ON: Gougler, Michael Assistant Commander (Texas Department of Public Safety), Austin, TX

Registering, but not testifying:

For: Gaylor, Tom Deputy Executive Director (Texas Municipal Police Association), Austin, TX

On: Ditucc, Frank (Texas Polygraph Board), Austin, TX

BILL ANALYSIS

Senate Research Center

C.S.S.B. 732
By: Williams
Criminal Justice
3/22/2005
Committee Report (Substituted)

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

A pre-employment polygraph examination can be an essential tool for a law enforcement agency to use in recruiting candidates with the highest qualities of honesty and integrity. The Texas Department of Public Safety (DPS) must be able to select those applicants who possess the highest qualities of moral character to serve the state. However, there is currently no legislative mandate to require DPS to use a pre-employment polygraph examination to ensure that such individuals are tapped to fill these sensitive positions. A pre-employment polygraph examination would be an additional tool, in conjunction with the current background investigation, that DPS could use to learn as much as possible about an applicant.

In a recent study of 43 local law enforcement agencies, 34 currently use a pre-employment polygraph in their application process. On a national level, law enforcement agencies that use pre-employment polygraph exams indicate high levels of confidence in the polygraph results, with many saying it reveals information not available otherwise, deters undesirable candidates, and makes background information easier to establish.

C.S.S.B. 732 requires a polygraph examination of persons applying for certain peace officer and police communications operator positions.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Department of Public Safety in SECTION 2 (Section 411.0074, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 411.007(c), Government Code, to provide that Section 411.0074 does not authorize the Department of Public Safety (DPS) to require an officer commissioned by DPS to take a polygraph examination.

SECTION 2. Amends Subchapter A, Chapter 411, Government Code, by adding Section 411.0074, as follows:

Sec. 411.0074. POLYGRAPH EXAMINATIONS FOR CERTAIN APPLICANTS. (a) Sets forth the persons to whom this section does not apply.

(b) Requires DPS to require applicants for a peace officer or police communications operator position in DPS to submit to the administration of a polygraph examination prior to employment. Requires the polygraph examination to be administered at a point in the hiring process as determined by DPS by rule.

(c) Requires the polygraph examination to be administered by a polygraph examiner licensed under Chapter 1703 (Polygraph Examiners), Occupations Code, who has certain qualifications.

(d) Requires DPS and the polygraph examiner to maintain the confidentiality of the results of the polygraph examination, and sets forth certain exceptions.

(e) Requires DPS to adopt reasonable rules for the administration of a polygraph examination under this section in accordance with the guidelines published by the

American Polygraph Association or the American Association of Police Polygraphists.

(f) Requires DPS to use the results of a polygraph examination under this section as a factor in determining whether to commission a peace officer or employ an applicant for the position of police communications operator.

SECTION 3. Makes application of Section 411.0074, Government Code, as added by this Act, prospective.

SECTION 4. Effective date: upon passage or September 1, 2005.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 23, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety of the State of Texas.),
Committee Report 1st House, Substituted

<p>No significant fiscal implication to the State is anticipated.</p>
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The bill would amend the Government Code as it relates to the administration of polygraph examinations to certain applicants for positions in the Texas Department of Public Safety (DPS).

The bill would require DPS to administer a polygraph examination to individuals applying for a peace officer or a police communications operator position prior to employment. DPS would be required to use an applicant's polygraph examination results as a factor in determining employment. DPS would be allowed to determine the point in the hiring process to administer the polygraph examination. The bill would not apply to an applicant who submits an application before the effective date of the bill, is currently a peace officer commissioned by DPS, or a police communications operator currently employed by DPS in another police communications operator position.

The bill would take effect immediately if a two-thirds majority vote in both houses of the Legislature is received. Otherwise, the bill would take effect on September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, KJG, VDS, SJ, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 21, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code as it relates to the administration of polygraph examinations to certain applicants for positions in the Texas Department of Public Safety (DPS).

The bill would require DPS to administer a polygraph examination to individuals applying for a peace officer or a police communications operator position. DPS would be required to use the results of the polygraph examination as a factor in determining whether to employ an applicant. The bill would not apply to an applicant who submits an application before the effective date of the bill, an applicant who is currently a peace officer commissioned by DPS or a police communications operator currently employed by DPS in another police communications operator position.

The bill would take effect immediately if a two-thirds majority vote in both houses of the Legislature is received. Otherwise, the bill would take effect on September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, KJG, VDS, SJ, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

79TH LEGISLATIVE REGULAR SESSION

March 23, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety of the State of Texas.),
Committee Report 1st House, Substituted

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, BT

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

79TH LEGISLATIVE REGULAR SESSION

March 21, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, BT

REQUEST FOR LOCAL & UNCONTESTED CALENDAR PLACEMENT

SENATOR CHRIS HARRIS, CHAIRMAN
SENATE COMMITTEE ON ADMINISTRATION

Notice is hereby given that SB 732, by Williams,
(Bill No.) (Author/Sponsor)
was heard by the Committee on Criminal Justice on 3/22, 2005,
and reported out with the recommendation that it be placed on the Local and Uncontested Calendar.



(Clerk of the reporting committee)

IMPORTANT: A COPY OF THIS FORM MUST BE ATTACHED TO A COMMITTEE PRINTED VERSION OF THE BILL OR RESOLUTION AND SHOULD BE DELIVERED TO THE ADMINISTRATION COMMITTEE OFFICE, E1.714. DEADLINES FOR SUBMITTING BILLS AND RESOLUTIONS WILL BE ANNOUNCED ON A REGULAR BASIS.

ADOPTED

31-0
APR 07 2005

Letty Spaul
Secretary of the Senate

By: Williams

S.B. No. 732

Substitute the following for S.B. No. 732:

By: *John A. Williams*

C.S.S.B. No. 732

A BILL TO BE ENTITLED

AN ACT

relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety of the State of Texas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (c), Section 411.007, Government Code, is amended to read as follows:

(c) An applicant for a position in the department must be a United States citizen. An applicant may not be questioned regarding the applicant's political affiliation or religious faith or beliefs. The department may not prohibit an officer or employee of the department, while off duty and out of uniform, from placing a bumper sticker endorsing political activities or a candidate for political office on a personal vehicle, placing a campaign sign in the person's private yard, making a political contribution, or wearing a badge endorsing political activities or a candidate. An officer commissioned by the department may not be suspended, terminated, or subjected to any form of discrimination by the department because of the refusal of the officer to take a polygraph examination. Section 411.0074 does not authorize the department to require an officer commissioned by the department to take a polygraph examination.

SECTION 2. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0074 to read as follows:

1 Sec. 411.0074. POLYGRAPH EXAMINATIONS FOR CERTAIN
2 APPLICANTS. (a) This section does not apply to:

3 (1) an applicant who is currently a peace officer of
4 the department commissioned by the department; or

5 (2) an applicant for a police communications operator
6 position who is currently employed by the department in another
7 police communications operator position.

8 (b) The department shall require applicants for a peace
9 officer or police communications operator position in the
10 department to submit to the administration of a polygraph
11 examination prior to employment. The polygraph examination shall
12 be administered at a point in the hiring process as determined by
13 the department by rule.

14 (c) The polygraph examination required by this section may
15 only be administered by a polygraph examiner licensed under Chapter
16 1703, Occupations Code, who:

17 (1) is a peace officer commissioned by the department;
18 or

19 (2) has a minimum of two years of experience
20 conducting preemployment polygraph examinations for a law
21 enforcement agency.

22 (d) The department and the polygraph examiner shall
23 maintain the confidentiality of the results of a polygraph
24 examination administered under this section, except that:

25 (1) the department and the polygraph examiner may
26 disclose the results in accordance with Section 1703.306,
27 Occupations Code; and

1 (2) notwithstanding Section 1703.306, Occupations
2 Code, the department may disclose any admission of criminal conduct
3 made during the course of an examination to another appropriate
4 governmental entity.

5 (e) The department shall adopt reasonable rules for the
6 administration of a polygraph examination under this section in
7 accordance with the guidelines published by the American Polygraph
8 Association or the American Association of Police Polygraphists.

9 (f) The department shall use the results of a polygraph
10 examination under this section as a factor in determining whether
11 to commission a peace officer or employ an applicant for the
12 position of police communications operator.

13 SECTION 3. Section 411.0074, Government Code, as added by
14 this Act, applies only to an applicant who submits an application
15 for a position in the Department of Public Safety of the State of
16 Texas on or after the effective date of this Act.

17 SECTION 4. This Act takes effect immediately if it receives
18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2005.

Engrossed April 7, 2005
Mardi Alveyand
Engrossing Clerk

I certify this to be a true and correct
copy of the indicated document as
referred or transmitted to committee
Chief Clerk of the House

By: Williams

S.B. No. 732

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the administration of polygraph examinations to certain
3 applicants for positions in the Department of Public Safety of the
4 State of Texas.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subsection (c), Section 411.007, Government
7 Code, is amended to read as follows:

8 (c) An applicant for a position in the department must be a
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10 regarding the applicant's political affiliation or religious faith
11 or beliefs. The department may not prohibit an officer or employee
12 of the department, while off duty and out of uniform, from placing a
13 bumper sticker endorsing political activities or a candidate for
14 political office on a personal vehicle, placing a campaign sign in
15 the person's private yard, making a political contribution, or
16 wearing a badge endorsing political activities or a candidate. An
17 officer commissioned by the department may not be suspended,
18 terminated, or subjected to any form of discrimination by the
19 department because of the refusal of the officer to take a polygraph
20 examination. Section 411.0074 does not authorize the department to
21 require an officer commissioned by the department to take a
22 polygraph examination.

23 SECTION 2. Subchapter A, Chapter 411, Government Code, is
24 amended by adding Section 411.0074 to read as follows:

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4 the department commissioned by the department; or

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6 position who is currently employed by the department in another
7 police communications operator position.

8 (b) The department shall require applicants for a peace
9 officer or police communications operator position in the
10 department to submit to the administration of a polygraph
11 examination prior to employment. The polygraph examination shall
12 be administered at a point in the hiring process as determined by
13 the department by rule.

14 (c) The polygraph examination required by this section may
15 only be administered by a polygraph examiner licensed under Chapter
16 1703, Occupations Code, who:

17 (1) is a peace officer commissioned by the department;
18 or

19 (2) has a minimum of two years of experience
20 conducting preemployment polygraph examinations for a law
21 enforcement agency.

22 (d) The department and the polygraph examiner shall
23 maintain the confidentiality of the results of a polygraph
24 examination administered under this section, except that:

25 (i) the department and the polygraph examiner may
26 disclose the results in accordance with Section 1703.306,
27 Occupations Code; and

1 (2) notwithstanding Section 1703.306, Occupations
2 Code, the department may disclose any admission of criminal conduct
3 made during the course of an examination to another appropriate
4 governmental entity.

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6 administration of a polygraph examination under this section in
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15 for a position in the Department of Public Safety of the State of
16 Texas on or after the effective date of this Act.

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18 a vote of two-thirds of all the members elected to each house, as
19 provided by Section 39, Article III, Texas Constitution. If this
20 Act does not receive the vote necessary for immediate effect, this
21 Act takes effect September 1, 2005.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 23, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety of the State of Texas.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code as it relates to the administration of polygraph examinations to certain applicants for positions in the Texas Department of Public Safety (DPS).

The bill would require DPS to administer a polygraph examination to individuals applying for a peace officer or a police communications operator position prior to employment. DPS would be required to use an applicant's polygraph examination results as a factor in determining employment. DPS would be allowed to determine the point in the hiring process to administer the polygraph examination. The bill would not apply to an applicant who submits an application before the effective date of the bill, is currently a peace officer commissioned by DPS, or a police communications operator currently employed by DPS in another police communications operator position.

The bill would take effect immediately if a two-thirds majority vote in both houses of the Legislature is received. Otherwise, the bill would take effect on September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, KJG, VDS, SJ, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 21, 2005

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FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

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The bill would amend the Government Code as it relates to the administration of polygraph examinations to certain applicants for positions in the Texas Department of Public Safety (DPS).

The bill would require DPS to administer a polygraph examination to individuals applying for a peace officer or a police communications operator position. DPS would be required to use the results of the polygraph examination as a factor in determining whether to employ an applicant. The bill would not apply to an applicant who submits an application before the effective date of the bill, an applicant who is currently a peace officer commissioned by DPS or a police communications operator currently employed by DPS in another police communications operator position.

The bill would take effect immediately if a two-thirds majority vote in both houses of the Legislature is received. Otherwise, the bill would take effect on September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, KJG, VDS, SJ, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

79TH LEGISLATIVE REGULAR SESSION

March 23, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety of the State of Texas.),
Committee Report 1st House, Substituted

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, BT

LEGISLATIVE BUDGET BOARD
Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

79TH LEGISLATIVE REGULAR SESSION

March 21, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, BT

HOUSE COMMITTEE REPORT

05 MAY 21 AM 1:50
HOUSE OF REPRESENTATIVES

1st Printing

By: Williams
(Driver)

S.B. No. 732

Substitute the following for S.B. No. 732:

By: Jackson

C.S.S.B. No. 732

A BILL TO BE ENTITLED

AN ACT

relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 411.007(c), Government Code, is amended to read as follows:

(c) An applicant for a position in the department must be a United States citizen. An applicant may not be questioned regarding the applicant's political affiliation or religious faith or beliefs. The department may not prohibit an officer or employee of the department, while off duty and out of uniform, from placing a bumper sticker endorsing political activities or a candidate for political office on a personal vehicle, placing a campaign sign in the person's private yard, making a political contribution, or wearing a badge endorsing political activities or a candidate. An officer commissioned by the department may not be suspended, terminated, or subjected to any form of discrimination by the department because of the refusal of the officer to take a polygraph examination. Section 411.0074 does not authorize the department to require an officer commissioned by the department to take a polygraph examination.

SECTION 2. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0074 to read as follows:

Sec. 411.0074. POLYGRAPH EXAMINATIONS FOR CERTAIN

1 APPLICANTS. (a) This section does not apply to:

2 (1) an applicant who is currently a peace officer of
3 the department commissioned by the department; or

4 (2) an applicant for a police communications operator
5 position who is currently employed by the department in another
6 police communications operator position.

7 (b) Before commissioning an applicant as a peace officer or
8 employing an applicant for a police communications operator
9 position, the department shall require the applicant to submit to
10 the administration of a polygraph examination in accordance with
11 rules adopted under Subsection (e).

12 (c) The polygraph examination required by this section may
13 only be administered by a polygraph examiner licensed under Chapter
14 1703, Occupations Code, who:

15 (1) is a peace officer commissioned by the department;
16 or

17 (2) has a minimum of two years of experience
18 conducting preemployment polygraph examinations for a law
19 enforcement agency.

20 (d) The department and the polygraph examiner shall
21 maintain the confidentiality of the results of a polygraph
22 examination administered under this section, except that:

23 (1) the department and the polygraph examiner may
24 disclose the results in accordance with Section 1703.306,
25 Occupations Code; and

26 (2) notwithstanding Section 1703.306, Occupations
27 Code, the department may disclose any admission of criminal conduct

1 made during the course of an examination to another appropriate
2 governmental entity.

3 (e) The department shall adopt reasonable rules to specify
4 the point in the hiring process at which the department shall
5 require a polygraph examination to be administered under this
6 section and the manner in which the examination shall be
7 administered. Rules relating to the administration of a polygraph
8 examination shall be adopted in accordance with the guidelines
9 published by the American Polygraph Association or the American
10 Association of Police Polygraphists.

11 (f) The department shall use the results of a polygraph
12 examination under this section as a factor in determining whether
13 to commission a peace officer or employ an applicant for the
14 position of police communications operator.

15 SECTION 3. Section 411.0074, Government Code, as added by
16 this Act, applies only to an applicant who submits an application
17 for a position in the Department of Public Safety of the State of
18 Texas on or after the effective date of this Act.

19 SECTION 4. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2005.

COMMITTEE REPORT

The Honorable Tom Craddick
Speaker of the House of Representatives

05/17/2005
(date)

Sir:
We, your COMMITTEE ON LAW ENFORCEMENT
to whom was referred SB 232 have had the same under consideration and beg to report
back with the recommendation that it

- () do pass, without amendment.
- () do pass, with amendment(s).
- (☒) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.
- (☒ yes () no A fiscal note was requested.
- (☒ yes () no A criminal justice policy impact statement was requested.
- () yes (☒ no An equalized educational funding impact statement was requested.
- () yes (☒ no An actuarial analysis was requested.
- () yes (☒ no A water development policy impact statement was requested.
- () yes (☒ no A tax equity note was requested.
- (☒ The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor Driver

Joint Sponsors: / / /

Co-Sponsors:

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Driver, Chair	<input checked="" type="checkbox"/>			
Jackson, Vice-chair	<input checked="" type="checkbox"/>			
Burnam				<input checked="" type="checkbox"/>
Frost	<input checked="" type="checkbox"/>			
Hegar	<input checked="" type="checkbox"/>			
Hupp	<input checked="" type="checkbox"/>			
Veasey	<input checked="" type="checkbox"/>			

Total
6 aye
0 nay
0 present, not voting
1 absent

CHAIR Joe L. W.

BILL ANALYSIS

C.S.S.B. 732
By: Williams
Law Enforcement
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Most local and state law enforcement agencies conduct pre-employment polygraph testing before hiring an applicant as a peace officer. On a national level, agencies, such as the FBI, CIA, Secret Service and Bureau of Alcohol, Tobacco, Firearms and Explosives, use pre-employment polygraph examination to deter undesirable candidates, and make background information easier to establish.

Currently, the Department of Public Safety does not administer pre-employment polygraph testing. Therefore, they are unable to use this additional tool to ascertain the character of potential officers. Currently potential officers, who fail polygraph tests or know they would be unable to pass such a test, apply to the Department of Public Safety. In an effort to increase the collective professionalism of DPS officers, as well as decrease the costs, liabilities and detrimental effects of employing exceptionable officers, C.S.S.B. 732 requires the department to administer pre-employment polygraph tests to all applicants for commissioned officer or police communications operator positions.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Department of Public Safety in SECTION 2 of this bill.

ANALYSIS

The bill amends Section 411.007, Subsection (c), of the Government Code to provide that the new Section 411.0074 does not authorize the department to require an officer commissioned by the Department of Public Safety (the department) to take a polygraph examination.

The bill amends the Government Code by adding Section 411.0074 as follows:

- Sets forth the persons to whom this section does not apply.
- Requires the department to require applicants for a peace officer or police communications operator position to submit to the administration of a polygraph examination before commissioning the applicant and requires the applicant to submit to the administration of a polygraph examination in accordance with rules adopted under Subsection (e).
- Requires the polygraph examination to be administered by a polygraph examiner licensed under Chapter 1703 (Polygraph Examiners), Occupations Code, who meets certain qualifications.
- Requires DPS and the polygraph examiner to maintain the confidentiality of the results of the polygraph examination, and sets forth certain exceptions.
- Requires DPS to adopt reasonable rules to specify the point in the hiring process at which the department shall require a polygraph examination and the manner in which the examination shall be administered; also specifies any rules for the administration of a polygraph examination under this section be in accordance with the guidelines published by the American Polygraph Association or the American Association of Police Polygraphists.
- Requires DPS to use the results of a polygraph examination under this section as a factor in determining whether to commission a peace officer or employ an applicant for the position of police communications operator.

The bill makes application of Section 411.0074, Government Code, as added by this Act, prospective.

EFFECTIVE DATE

Upon passage, or, if the Act does not receive the necessary vote, the Act takes effect September 1, 2005.

COMPARISON OF ORIGINAL TO SUBSTITUTE

Senate Bill 732 amends the Government Code by adding Section 411.0074, Subsection (b), which requires the department to require applicants for a peace officer or police communications operator position to submit to the administration of a polygraph examination prior to employment. C.S.S.B. 732 requires that the department require an applicant for a peace officer or police communications operator position to submit to a polygraph examination before commissioning the applicant.

Senate Bill 732 under Government Code, Section 411.0074, Subsection (b), also requires the polygraph examination to be administered at a point in the hiring process as determined by department by rule. C.S.S.B. 732 requires that this examination be administered in accordance with rules adopted under Subsection (e).

Senate Bill 732, under Government Code, Section 411.0074, Subsection (e), does not require the department to adopt rules to specify the point in the hiring process at which the department will require a polygraph examination to be administered under this section and the manner in which it will be administered. C.S.S.B. 732 does make this requirement under said Subsection.

SUMMARY OF COMMITTEE ACTION

SB 732

May 17, 2005 upon final adjourn./recess.

Considered in formal meeting

Committee substitute considered in committee

Recommended to be sent to Local & Consent

Reported favorably as substituted

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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 16, 2005

TO: Honorable Joe Driver, Chair, House Committee on Law Enforcement

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code as it relates to the administration of polygraph examinations to certain applicants for positions in the Texas Department of Public Safety (DPS).

The bill would require DPS to administer a polygraph examination to individuals applying for a peace officer or a police communications operator position prior to employment. DPS would be required to use an applicant's polygraph examination results as a factor in determining employment. DPS would be allowed to determine the point in the hiring process to administer the polygraph examination. The bill would not apply to an applicant who submits an application before the effective date of the bill, is currently a peace officer commissioned by DPS, or a police communications operator currently employed by DPS in another police communications operator position.

The bill would take effect immediately if a two-thirds majority vote in both houses of the Legislature is received. Otherwise, the bill would take effect on September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, KJG, VDS, SJ, LM

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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 22, 2005

TO: Honorable Joe Driver, Chair, House Committee on Law Enforcement

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety of the State of Texas.), As Engrossed

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code as it relates to the administration of polygraph examinations to certain applicants for positions in the Texas Department of Public Safety (DPS).

The bill would require DPS to administer a polygraph examination to individuals applying for a peace officer or a police communications operator position prior to employment. DPS would be required to use an applicant's polygraph examination results as a factor in determining employment. DPS would be allowed to determine the point in the hiring process to administer the polygraph examination. The bill would not apply to an applicant who submits an application before the effective date of the bill, is currently a peace officer commissioned by DPS, or a police communications operator currently employed by DPS in another police communications operator position.

The bill would take effect immediately if a two-thirds majority vote in both houses of the Legislature is received. Otherwise, the bill would take effect on September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, KJG, VDS, SJ, LM

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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 23, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety of the State of Texas.),
Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code as it relates to the administration of polygraph examinations to certain applicants for positions in the Texas Department of Public Safety (DPS).

The bill would require DPS to administer a polygraph examination to individuals applying for a peace officer or a police communications operator position prior to employment. DPS would be required to use an applicant's polygraph examination results as a factor in determining employment. DPS would be allowed to determine the point in the hiring process to administer the polygraph examination. The bill would not apply to an applicant who submits an application before the effective date of the bill, is currently a peace officer commissioned by DPS, or a police communications operator currently employed by DPS in another police communications operator position.

The bill would take effect immediately if a two-thirds majority vote in both houses of the Legislature is received. Otherwise, the bill would take effect on September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, KJG, VDS, SJ, LM

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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 21, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code as it relates to the administration of polygraph examinations to certain applicants for positions in the Texas Department of Public Safety (DPS).

The bill would require DPS to administer a polygraph examination to individuals applying for a peace officer or a police communications operator position. DPS would be required to use the results of the polygraph examination as a factor in determining whether to employ an applicant. The bill would not apply to an applicant who submits an application before the effective date of the bill, an applicant who is currently a peace officer commissioned by DPS or a police communications operator currently employed by DPS in another police communications operator position.

The bill would take effect immediately if a two-thirds majority vote in both houses of the Legislature is received. Otherwise, the bill would take effect on September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, KJG, VDS, SJ, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

79TH LEGISLATIVE REGULAR SESSION

May 16, 2005

TO: Honorable Joe Driver, Chair, House Committee on Law Enforcement

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.), Committee Report 2nd House, Substituted

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, BT

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LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

79TH LEGISLATIVE REGULAR SESSION

March 23, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

**IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety of the State of Texas.),
Committee Report 1st House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, BT

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LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

79TH LEGISLATIVE REGULAR SESSION

March 21, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, BT

10

original

ADOPTED

MAY 1985
Robert J. [unclear]
Chief Clerk
House of Representatives

By: Williams

S.B. No. 732

Substitute the following for S.B. No. 732:

By: Jackson, Jim

C.S. S.B. No. 732

A BILL TO BE ENTITLED

AN ACT

relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. ^{Subsection (c),} Section 411.007 ^{top}, Government Code, is amended to read as follows:

(c) An applicant for a position in the department must be a United States citizen. An applicant may not be questioned regarding the applicant's political affiliation or religious faith or beliefs. The department may not prohibit an officer or employee of the department, while off duty and out of uniform, from placing a bumper sticker endorsing political activities or a candidate for political office on a personal vehicle, placing a campaign sign in the person's private yard, making a political contribution, or wearing a badge endorsing political activities or a candidate. An officer commissioned by the department may not be suspended, terminated, or subjected to any form of discrimination by the department because of the refusal of the officer to take a polygraph examination. Section 411.0074 does not authorize the department to require an officer commissioned by the department to take a polygraph examination.

SECTION 2. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0074 to read as follows:

Sec. 411.0074. POLYGRAPH EXAMINATIONS FOR CERTAIN 1/2

1 APPLICANTS. (a) This section does not apply to:

2 (1) an applicant who is currently a peace officer of
3 the department commissioned by the department; or

4 (2) an applicant for a police communications operator
5 position who is currently employed by the department in another
6 police communications operator position.

7 (b) Before commissioning an applicant as a peace officer or
8 employing an applicant for a police communications operator
9 position, the department shall require the applicant to submit to
10 the administration of a polygraph examination in accordance with
11 rules adopted under Subsection (e).

12 (c) The polygraph examination required by this section may
13 only be administered by a polygraph examiner licensed under Chapter
14 1703, Occupations Code, who:

15 (1) is a peace officer commissioned by the department;
16 or

17 (2) has a minimum of two years of experience
18 conducting preemployment polygraph examinations for a law
19 enforcement agency.

20 (d) The department and the polygraph examiner shall
21 maintain the confidentiality of the results of a polygraph
22 examination administered under this section, except that:

23 (1) the department and the polygraph examiner may
24 disclose the results in accordance with Section 1703.306,
25 Occupations Code; and

26 (2) notwithstanding Section 1703.306, Occupations
27 Code, the department may disclose any admission of criminal conduct / ²/₃

1 made during the course of an examination to another appropriate
2 governmental entity.

3 (e) The department shall adopt reasonable rules to specify
4 the point in the hiring process at which the department shall
5 require a polygraph examination to be administered under this
6 section and the manner in which the examination shall be
7 administered. Rules relating to the administration of a polygraph
8 examination shall be adopted in accordance with the guidelines
9 published by the American Polygraph Association or the American
10 Association of Police Polygraphists.

11 (f) The department shall use the results of a polygraph
12 examination under this section as a factor in determining whether
13 to commission a peace officer or employ an applicant for the
14 position of police communications operator.

15 SECTION 3. Section 411.0074, Government Code, as added by
16 this Act, applies only to an applicant who submits an application
17 for a position in the Department of Public Safety of the State of
18 Texas on or after the effective date of this Act.

19 SECTION 4. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2005.

S.B. No. 732

AN ACT

relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subsection (c), Section 411.007, Government Code, is amended to read as follows:

(c) An applicant for a position in the department must be a United States citizen. An applicant may not be questioned regarding the applicant's political affiliation or religious faith or beliefs. The department may not prohibit an officer or employee of the department, while off duty and out of uniform, from placing a bumper sticker endorsing political activities or a candidate for political office on a personal vehicle, placing a campaign sign in the person's private yard, making a political contribution, or wearing a badge endorsing political activities or a candidate. An officer commissioned by the department may not be suspended, terminated, or subjected to any form of discrimination by the department because of the refusal of the officer to take a polygraph examination. Section 411.0074 does not authorize the department to require an officer commissioned by the department to take a polygraph examination.

SECTION 2. Subchapter A, Chapter 411, Government Code, is amended by adding Section 411.0074 to read as follows:

Sec. 411.0074. POLYGRAPH EXAMINATIONS FOR CERTAIN

1 APPLICANTS. (a) This section does not apply to:

2 (1) an applicant who is currently a peace officer of
3 the department commissioned by the department; or

4 (2) an applicant for a police communications operator
5 position who is currently employed by the department in another
6 police communications operator position.

7 (b) Before commissioning an applicant as a peace officer or
8 employing an applicant for a police communications operator
9 position, the department shall require the applicant to submit to
10 the administration of a polygraph examination in accordance with
11 rules adopted under Subsection (e).

12 (c) The polygraph examination required by this section may
13 only be administered by a polygraph examiner licensed under Chapter
14 1703, Occupations Code, who:

15 (1) is a peace officer commissioned by the department;
16 or

17 (2) has a minimum of two years of experience
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19 enforcement agency.

20 (d) The department and the polygraph examiner shall
21 maintain the confidentiality of the results of a polygraph
22 examination administered under this section, except that:

23 (1) the department and the polygraph examiner may
24 disclose the results in accordance with Section 1703.306,
25 Occupations Code; and

26 (2) notwithstanding Section 1703.306, Occupations
27 Code, the department may disclose any admission of criminal conduct

1 made during the course of an examination to another appropriate
2 governmental entity.

3 (e) The department shall adopt reasonable rules to specify
4 the point in the hiring process at which the department shall
5 require a polygraph examination to be administered under this
6 section and the manner in which the examination shall be
7 administered. Rules relating to the administration of a polygraph
8 examination shall be adopted in accordance with the guidelines
9 published by the American Polygraph Association or the American
10 Association of Police Polygraphists.

11 (f) The department shall use the results of a polygraph
12 examination under this section as a factor in determining whether
13 to commission a peace officer or employ an applicant for the
14 position of police communications operator.

15 SECTION 3. Section 411.0074, Government Code, as added by
16 this Act, applies only to an applicant who submits an application
17 for a position in the Department of Public Safety of the State of
18 Texas on or after the effective date of this Act.

19 SECTION 4. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2005.

S.B. No. 732

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 732 passed the Senate on April 7, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2005, by the following vote: Yeas 29, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 732 passed the House, with amendment, on May 25, 2005, by the following vote: Yeas 144, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

May 16, 2005

TO: Honorable Joe Driver, Chair, House Committee on Law Enforcement

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.), **Committee Report 2nd House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code as it relates to the administration of polygraph examinations to certain applicants for positions in the Texas Department of Public Safety (DPS).

The bill would require DPS to administer a polygraph examination to individuals applying for a peace officer or a police communications operator position prior to employment. DPS would be required to use an applicant's polygraph examination results as a factor in determining employment. DPS would be allowed to determine the point in the hiring process to administer the polygraph examination. The bill would not apply to an applicant who submits an application before the effective date of the bill, is currently a peace officer commissioned by DPS, or a police communications operator currently employed by DPS in another police communications operator position.

The bill would take effect immediately if a two-thirds majority vote in both houses of the Legislature is received. Otherwise, the bill would take effect on September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, KJG, VDS, SJ, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

April 22, 2005

TO: Honorable Joe Driver, Chair, House Committee on Law Enforcement

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety of the State of Texas.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code as it relates to the administration of polygraph examinations to certain applicants for positions in the Texas Department of Public Safety (DPS).

The bill would require DPS to administer a polygraph examination to individuals applying for a peace officer or a police communications operator position prior to employment. DPS would be required to use an applicant's polygraph examination results as a factor in determining employment. DPS would be allowed to determine the point in the hiring process to administer the polygraph examination. The bill would not apply to an applicant who submits an application before the effective date of the bill, is currently a peace officer commissioned by DPS, or a police communications operator currently employed by DPS in another police communications operator position.

The bill would take effect immediately if a two-thirds majority vote in both houses of the Legislature is received. Otherwise, the bill would take effect on September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, KJG, VDS, SJ, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 23, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety of the State of Texas.),
Committee Report 1st House, Substituted

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code as it relates to the administration of polygraph examinations to certain applicants for positions in the Texas Department of Public Safety (DPS).

The bill would require DPS to administer a polygraph examination to individuals applying for a peace officer or a police communications operator position prior to employment. DPS would be required to use an applicant's polygraph examination results as a factor in determining employment. DPS would be allowed to determine the point in the hiring process to administer the polygraph examination. The bill would not apply to an applicant who submits an application before the effective date of the bill, is currently a peace officer commissioned by DPS, or a police communications operator currently employed by DPS in another police communications operator position.

The bill would take effect immediately if a two-thirds majority vote in both houses of the Legislature is received. Otherwise, the bill would take effect on September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies:

LBB Staff: JOB, KJG, VDS, SJ, LM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 79TH LEGISLATIVE REGULAR SESSION

March 21, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Government Code as it relates to the administration of polygraph examinations to certain applicants for positions in the Texas Department of Public Safety (DPS).

The bill would require DPS to administer a polygraph examination to individuals applying for a peace officer or a police communications operator position. DPS would be required to use the results of the polygraph examination as a factor in determining whether to employ an applicant. The bill would not apply to an applicant who submits an application before the effective date of the bill, an applicant who is currently a peace officer commissioned by DPS or a police communications operator currently employed by DPS in another police communications operator position.

The bill would take effect immediately if a two-thirds majority vote in both houses of the Legislature is received. Otherwise, the bill would take effect on September 1, 2005.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 405 Department of Public Safety

LBB Staff: JOB, KJG, VDS, SJ, LM

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

79TH LEGISLATIVE REGULAR SESSION

May 16, 2005

TO: Honorable Joe Driver, Chair, House Committee on Law Enforcement

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.), **Committee Report 2nd House, Substituted**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, BT

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

79TH LEGISLATIVE REGULAR SESSION

March 23, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety of the State of Texas.),
Committee Report 1st House, Substituted

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, GG, BT

LEGISLATIVE BUDGET BOARD

Austin, Texas

CRIMINAL JUSTICE IMPACT STATEMENT

79TH LEGISLATIVE REGULAR SESSION

March 21, 2005

TO: Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

FROM: John S. O'Brien, Deputy Director, Legislative Budget Board

IN RE: SB732 by Williams (Relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.), **As Introduced**

No significant impact on the programs and workload of state corrections agencies or on the demand for resources and services of those agencies is anticipated from any provisions of this bill that authorize or require a change in the sanctions applicable to adults convicted of felony crimes.

Source Agencies:

LBB Staff: JOB, BT

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 732 passed the Senate on April 7, 2005, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 27, 2005, by the following vote: Yeas 29, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 732 passed the House, with amendment, on May 25, 2005, by the following vote: Yeas 144, Nays 0.

, two present not voting

Chief Clerk of the House

Approved:

Date

Governor:

S.B. No. 732

By William

A BILL TO BE ENTITLED

AN ACT:

~~relating to the administration of polygraph examinations to certain applicants for positions in the Department of Public Safety.~~

FEB 24 2005

Filed with the Secretary of the Senate

MAR 02 2005

Read and referred to Committee on CRIMINAL JUSTICE

Reported favorably _____

MAR 29 2005

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

APR 07 2005

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by: { unanimous consent
_____ yeas, _____ nays

APR 07 2005

Read second time, _____, and ordered engrossed by: { ~~unanimous consent~~
a viva voce vote
_____ yeas, _____ nays

APR 07 2005

Senate and Constitutional 3 Day Rule suspended by a vote of 31 yeas, 0 nays.

APR 07 2005

Read third time, _____, and passed by: { ~~A viva voce vote~~
31 yeas, 0 nays

Larry Spaw
SECRETARY OF THE SENATE

OTHER ACTION:

April 7, 2005 Engrossed

_____ Sent to House

Engrossing Clerk

Mandi Alexander

APR 07 2005

Received from the Senate

APR 12 2005

Read first time and referred to Committee on Law Enforcement

MAY 17 2005

Reported _____ favorably (~~as amended~~) (as substituted)

MAY 21 2005

Sent to Committee on (~~Calendars~~) (Local & Consent Calendars)

MAY 25 2005

Read second time (comm. subst.) (~~amended~~); passed to third reading (~~failed~~) by a (non-record vote) (~~record vote of~~ _____ yeas, _____ nays, _____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of _____ yeas, _____ nays, _____ present, not voting.

MAY 25 2005

Read third time (~~amended~~); finally passed (~~failed to pass~~) by a (~~non-record vote~~) (record vote of 144 yeas, 0 nays, 2 present, not voting)

MAY 25 2005

Returned to Senate.

Robert Haney

CHIEF CLERK OF THE HOUSE

Returned from House without amendment.

MAY 25 2005

Returned from House with 1 amendments.

MAY 27 2005

Concurred in House amendments by a viva voce vote 29 yeas, 0 nays.

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays

05 MAY 21 AM 1:50
HOUSE OF REPRESENTATIVES